IN THE HIGH COURT OF BOMBAY AT BOMBAY

APPEAL FROM ORDER NO.34 OF 2003
AND
CIVIL APPLICATION NO.128/03

Shri Raghoba alias Appa Arjun Shetgaonkar, major, married, s/o. late Arjun Shetgonkar, R/o. H.No. 704/A, Mardiwada, Morjim, Pernem, Goa. .... Appellant.

V/s.

Shri Pramod Rane, major, married, s/o. late Atmaram Rane, businessman, r/o. 42, Veena Tower, Colaba, Mumbai (through the lawful Attorney) Ms. Mathilda Jude Fernandes, married, residnet of House No.76, Ansabhat, Mapusa, Goa. ..... Respondent.

Mr. S.D. Lotlikar, Sr. Advocate with Mr. A.D. Bhobe, Advocate for the appellant.

Mr. M.S. Sonak, Advocate for the respondent.

CORAM : F.I. REBELLO, J.

DATE : 20TH JUNE, 2003.

ORAL JUDGMENT:

Admit. Respondent waives service. Heard forthwith.

2. There was an order dated 1.4.2002, passed in Civil Misc. Application No.315/2001 and Civil Misc. Application No.401/01 in Special Civil Suit No.71/2001/B. By the said order, various directions have been issued.

3. After that order, a fresh application being Civil Misc. Application No.17/2003/B in Special Civil Suit No.71/2001 was moved by the respondent herein, which was allowed by the learned trial Court by order dated 30.4.2003. It is this order which is the subject matter of the present appeal. After the matter was heard for some time, considering that it is basically a dispute between the parties as to the title and would require demarcation or separation of the properties, a suggestion of the Court has been accepted by the parties that a Surveyor be appointed so as to identify the properties, based on the title documents. Considering the earlier order, the impugned order dated 30.4.2003 is set aside. Both the parties to follow the earlier order of the trial Court dated 1.4.2002.

The Director of Land Survey to appoint a Senior Surveyor to survey the proprieties of the parties based on the title documents and submit report of the Commissioner to the Civil Judge, Sr. Division, at Mapusa. Commissioner so appointed, to carry out the survey after giving notice to the parties and examining the title documents. Costs of the Surveyor to be borne by both the parties in equal share. The trial Court is directed to issue notice to the Director of Land Survey, to appoint a Commissioner. Further proceedings regarding the commission, would be the subject matter

before the trial Court.

With the aforesaid directions, appeal from Order is disposed of along with the Civil Misc. Application, with no order as to costs.

F.I. REBELLO, J.

ssm.